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Paper No. 28

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In re Application of
Elledge et al.
Application No. 09/122,384
Filed: July 24, 1998
Attorney Docket No. BAY136/4-010CIP

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MAY 29 2001

**OFFICE OF PETITIONS
A/C PATENTS**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2001, to revive the above-identified application.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Issue Fee Due, and submit corrected drawings, as required by the Notice of Allowability both of which were mailed June 28, 2000. The Notice of Allowance and Issue Fee Due set a three (3) month statutory period for reply. The Notice of Allowability set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 29, 2000. A Notice of Abandonment was subsequently mailed on October 26, 2000.

The statement of unintentional delay presented in the petition does not comply with the current rule. Effective December 1, 1997, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

Having found all the requirements for the filing of a grantable petition under 37 CFR §1.137 this Petition is hereby Granted.

The Fee Address Form has been forwarded to the Maintenance Fee Branch.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

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